

COLORADO DEPARTMENT OF REVENUE
MOTOR VEHICLE DEALER BOARD

Case No. BD 20-0102

STIPULATION AND FINAL AGENCY ORDER

IN THE MATTER OF: AUDI DENVER a/k/a CONTINENTAL
VOLKSWAGEN, INC.
Franchised Motor Vehicle Dealer
License Number 8241

Respondent.

IT IS HEREBY STIPULATED & AGREED by and between the Colorado Department of Revenue, Auto Industry Division (“Division”), Motor Vehicle Dealer Board (“Board”) and Audi Denver a/k/a Continental Volkswagen, Inc. (“Respondent”) (collectively the “Parties”) in lieu of further legal action:

1. The Board has jurisdiction over Respondent and the subject matter of this Stipulation and Final Agency Order (“Order”) as set forth in article 20 of Title 44, C.R.S., and the Administrative Procedure Act, article 4 of Title 24, C.R.S.

2. Respondent has been licensed motor vehicle dealer in the State of Colorado at all times relevant herein.

3. The Board has alleged that Respondent violated the following:

A. Violating any state or federal law respecting commerce or motor vehicles, in violation of section 44-20-121(3)(m), C.R.S.

4. Respondent understands that:

A. Respondent has the right to be represented by an attorney of Respondent’s choice, at Respondent’s expense;

B. Respondent has the right to a formal hearing in accordance with article 20 of Title 44, C.R.S.;

C. By entering into this Order, Respondent knowingly and voluntarily waives the right to a hearing, and relieves the Board of its burden of proving the violations alleged herein;

D. Respondent knowingly and voluntarily waives the right to present a defense by oral and documentary evidence, and to cross-examine witnesses who would testify on behalf of the Board; and,

E. Respondent knowingly and voluntarily waives the right to judicial review of

this matter.

5. Respondent acknowledges receipt of sufficient notice, sufficient advisement of rights, and sufficient process in the proceedings of this case, and desires to resolve all issues, which were the subject of the investigation, by entering into this Order.

6. Respondent's agreement to enter into this Stipulation and Final Agency Order is in resolution of a disputed claim and shall not constitute an admission of liability or wrongdoing by Respondent with respect to any federal, state, or local law, or any of the allegations asserted or claims raised in Case No. BD 20-0102.

7. Respondent acknowledges that the Board has sufficient credible evidence to support a finding of a violation by Respondent for each of the allegations listed in paragraph 3 of this Order, should the case proceed to hearing.

8. The Parties agree, in lieu of subsequent administrative proceedings, to the following resolution:

- A. Respondent shall pay a fine \$7,500.00 in resolution of the allegations provided above. Of the total fine of \$7,500.00, Respondent agrees \$3,000.00 shall be due and payable within thirty (30) days from the date that this Order is approved by the Board; and
- B. The remaining balance, amounting to \$4,500.00, shall be deferred and payable only if Respondent commits a future violation of any section of article 20 of title 44, C.R.S. or regulation in 1 CCR 205-1 during the one (1) year following the date that this Order is approved by the Board.
- C. Respondent shall make restitution to Mr. Curt Morlock in the amount of \$1,097.00, conditioned on being able to locate Mr. Morlock within sixty (60) days of the date this Order is approved by the Board.

9. Respondent agrees to strictly adhere to and to completely fulfill all requirements established in this Order.

10. Upon fulfillment of all requirements of this Order, Respondent shall be released of any further liability with respect to the allegations asserted or claims raised in Case No. BD 20-0102.

11. This Order will not become an order of the Board unless and until the Board approves it. If this Order is not approved by the Board, it is void, and the Parties shall not be bound by any provisions hereof or admissions herein.

12. Each Party shall bear its own costs and fees incurred in this action.

13. This Order is the complete integration of all understandings between the parties. No addition, deletion, or amendment shall have any force or effect whatsoever, except as mutually agreed to in a writing signed by both Parties.

14. The Parties agree to cooperate fully and to execute any and all supplementary documents and to take all additional actions necessary or appropriate to give full force and effect to the terms and intent of this Order.

15. The provisions of this Order shall be enforceable by the Parties before the Colorado Motor Vehicle Dealer Board, by any lawful remedy.

16. Respondent expressly acknowledges having read and understood completely the terms of this Order. Respondent enters this Order knowingly and voluntarily, after the opportunity to consult with counsel, and with full understanding of the legal consequences of this Order. Respondent expressly states the terms of this Order are fair, conscionable, and appropriate to reach a full and final resolution of this disciplinary matter.

17. This Order and all its terms shall have the same force and effect as an order entered by the Board after hearing pursuant to article 20 of Title 44, C.R.S., except that this Order cannot be appealed.

18. Respondent agrees that any violation of this Order may constitute grounds for disciplinary action and, if proven, may constitute a basis for further sanctions or for any other remedy authorized by law.

19. If this matter is referred to hearing for violation of this Order, this Order shall be admissible as evidence.

20. If an alleged violation of this Order is taken to hearing and the facts that constitute the violation are not proven, the Board shall not impose any additional sanction and this Order shall remain operative and in full force and effect. Respondent must comply with the terms of this Order during the pendency of, and after the conclusion of, such disciplinary action.

21. Once effective, this Order becomes a public record in the Board's custody at all times.

22. Effective Date. This Order becomes a final agency order of the Board when accepted by the Board and signed by an authorized representative of the Board.

23. This Order is a full and final resolution of case number BD 20-0102. This Order does not resolve any other cases, complaints or matters, known or unknown to the Parties, as of the effective date of this Order.

24. Respondent shall immediately provide written notice to the Board of any change of Respondent's address. Any notice required under this Order shall be valid if provided, in writing, to the last known written address provided to the Board by Respondent, which currently is:

Audi Denver d/b/a Continental
Volkswagen, Inc.
Attn: Patrick Hutchinson
6060 S. Broadway

Littleton, CO 80121

25. All correspondence and notices to the Board must be provided to the Board at the following address:

Colorado Department of Revenue,
Auto Industry Division
Chris Rouze, Division Director /Executive
Secretary
1707 Cole Boulevard, Suite 300
Lakewood, Colorado 80401

26. Should any term or provision of this Order be declared invalid or become inoperative for any reason, such invalidity or failure does not affect the validity of any other term or provision hereof.

27. This Order may be signed in counterparts, each of which has full force and effect upon execution by all Parties.

28. Respondent warrants that it possesses the legal authority to enter into this Order and that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Order and to bind Respondent to its terms.

29. The person executing this Order on behalf of Respondent warrants that such person has full authorization to execute this Stipulation and Final Agency Order.

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SIGNATURE PAGE TO FOLLOW

AGREED TO BY:

Chris J. Rouze
Director/ Executive Secretary
Auto Industry Division
Motor Vehicle Dealer Board

Date

FOR THE RESPONDENT:

DocuSigned by:
Patrick Hutchinson
61221E1E6A9E4E3


Patrick Hutchinson

5/3/2023

Date

Print Name
Audi Denver d/b/a Continental
Volkswagen, Inc.

APPROVED AS TO FORM:



Adrian P. Castro, #42028
Fairfield and Woods, P.C.
Attorneys for Respondent

May 3, 2023

Date

Sarah E. Killeen

Sarah E. Killeen, #31992
Assistant Attorney General
Attorney for the Colorado
Motor Vehicle Dealer Board

May 8, 2023

Date

The Order is approved and its terms are hereby adopted as an Order of this Board.

ORDERED AND ENTERED this _____ day of _____, 2023.

COLORADO MOTOR VEHICLE DEALER BOARD

BY: _____
Amanda Gordon, President

AGREED TO BY:

John Opeka

Digitally signed by John Opeka
Date: 2023.05.24 10:27:10
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5/24/2023

Chris J. Rouze
Director/ Executive Secretary
Auto Industry Division
Motor Vehicle Dealer Board

By John Opeka
For Chris J. Rouze

Date

FOR THE RESPONDENT:

Date

Print Name
Audi Denver d/b/a Continental
Volkswagen, Inc.

APPROVED AS TO FORM:

Adrian P. Castro, #42028
Fairfield and Woods, P.C.
Attorneys for Respondent

Date

Sarah E. Killeen, #31992
Assistant Attorney General
Attorney for the Colorado
Motor Vehicle Dealer Board

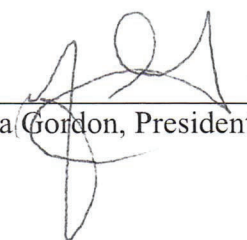
Date

The Order is approved and its terms are hereby adopted as an Order of this Board.

ORDERED AND ENTERED this 16th day of May 2023.

COLORADO MOTOR VEHICLE DEALER BOARD

BY:



Amanda Gordon, President

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within STIPULATION AND FINAL AGENCY ORDER upon all parties herein by depositing copies of same in the United States mail, first-class postage prepaid, at Denver, Colorado, and personal service (as noted), this 24th day of May 2023, addressed as follows:

Audi Denver d/b/a Continental
Volkswagen, Inc.
6060 S. Broadway
Littleton, CO 80121

Fairfield and Woods, P.C.
Attn: Adrian P. Castro, Esq.
1801 California Street, #2600
Denver, CO 80202
acastro@fwlaw.com

Sarah E. Killeen, Esq.
Assistant Attorney General
1300 Broadway 8th Floor
Denver, CO 80203
Sarah.killeen@coag.gov

Chris J. Rouze, Executive Secretary
Colorado Motor Vehicle Dealer Board
Director, Auto Industry Division
1707 Cole Blvd., Suite 300
Lakewood, Colorado 80401
(Placed in Board File)

John Opeka Digitally signed by John
Opeka
Date: 2023.05.24 10:27:28
-06'00'

John Opeka
Deputy Director, Auto Industry Division